

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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QUINCY L. SELLERS,

Petitioner,

-against-

9:04-CV-490

SUPERINTENDENT, CLINTON CORRECTIONAL  
FACILITY,

Respondent.

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Thomas J. McAvoy, Senior U.S. District Judge

**DECISION & ORDER**

This *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 was referred to the Hon. David E. Peebles, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.4.

No objections to the Report and Recommendation dated March 21, 2005 have been filed. Furthermore, after examining the record, this Court has determined that the Report and Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report and Recommendation for the reasons stated therein.

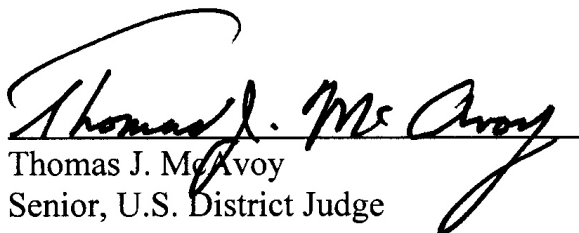
It is therefore

**ORDERED** that Respondent's motion to dismiss the petition for a

writ of habeas corpus is **GRANTED**, and the petition for a writ of habeas corpus is **DISMISSED without prejudice**.

**IT IS SO ORDERED.**

Dated: September 19, 2005

  
Thomas J. McAvoy  
Senior, U.S. District Judge